IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5334 OF 2004

Ms. Sippy Jay Sethia ...Applicant

Versus

Jay Sethia (Abscond accused)
and others ...Respondents

.....

Mr. M.S. Adenwala, counsel for Applicant

Ms. Teja Kotdare, counsel for Respondents 2 and 3.

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CORAM: B. H. MARLAPALLE, J.

DATED: 31ST MARCH, 2005

P. C.:-

1. Heard the learned counsel for the applicant.

2. It appears that some matrimonial disputes are pending between the applicant and the respondent Nos. 1 to 3. The respondent No.1 is the husband of the applicant and he is alleged to be absconding. As per the applicant either he is in Australia or in America as at present. The respondent No.2 is the father-in-law and the respondent No.3 is the Mother-in-law of the applicant.

3. This Court in Criminal Application No.2490 of 2004 by order dated 17.6.2004 has released the

respondent Nos.2 and 3 on bail. The applicant contents that the said bail is required to be cancelled and the respondents are required to be taken in custody. The grounds for cancellation of bail are set out in paragraph No.4 of the application memo and there is no specific instance mentioned by the applicant regarding tampering with the evidence, threats meted out to her by any of the respondents or any act of intimidation. No witness has been named who was sought to be tampered with or influenced by the respondents.

4. The learned counsel for the applicant in his oral arguments emphasised that the respondent Nos. 2 and 3 are filing false and frivolous cases against the applicant in different Courts at Hyderabad and this is nothing but an act of causing injury, threat and criminal intimidation to the applicant and therefore, their bail must be cancelled. The learned counsel for the applicant referred to the principles laid down in the case of the **State through Delhi Administration Vs. Sanjay Gandhi (AIR 1978 SC 961)**. In fact none of the grounds set out in the application are covered in the purview of principles laid down by the Apex Court in the case of Sanjay Gandhi (supra). If the respondents have filed criminal cases before the different courts, it is for those courts to examine prima facie case to take

cognizance or not and if the cognizance is taken by issuing process, the applicant has the remedy to challenge such order of issuance of process and in any case she is not remedy-less. But, surely filing of such cases alleged to be false and frivolous cannot be a ground to cancel the bail granted earlier by this Court.

5. Hence, this application must fail and the same is hereby rejected.